

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 22, 2001 at 9:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: Rep. Larry Jent (D)
Rep. Michelle Lee (D)

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 362, 3/14/2001
Executive Action: SB 123, SB 185, SB 51, SB 114,
SB 362, SB 381

EXECUTIVE ACTION ON SB 123

{Tape : 1; Side : A; Approx. Time Counter : 0}

Motion: REP. DELL moved that SB 123 BE RECONSIDERED. **Vote:** Motion carried 11-5 with Brown, Lehman, Masolo, Olson, and Ripley voting no. No vote for Mood and Raser.

Motion: REP. DELL moved that SB 123 BE CONCURRED IN AS AMENDED

Discussion:

REPRESENTATIVE DELL said he feels this bill should be debated on the floor of the house, even though he will be voting no on the floor.

REPRESENTATIVE BROWN said she sees the merit in the bill, but has concerns that the sessions would be lengthen, due to all the paperwork, therefor she is voting no on the bill.

REPRESENTATIVE SMITH said he will vote for it

REPRESENTATIVE HEDGES told the committee he is in favor of this piece of legislation. He feels in order to manage Montana from the citizens perspective, you need to be here and don the job.

REPRESENTATIVE LEHMAN feels the concept is good, but that Montana is not ready for it yet. There is a perception that the legislatures are all party and no work and is going to vote against the bill.

REPRESENTATIVE LEHMAN stated the bill should be voted on, passed, and taken to the house floor.

REPRESENTATIVE MASOLO said she will again vote against the bill. She feels enough changes are done every other year, let alone every year.

REPRESENTATIVE RIPLEY commented, he originally voted to table the bill, and is now going to vote yes to send it to the floor, however, when it gets on the floor he will vote no. He is going to do that because he feels it needs to be debated.

REPRESENTATIVE BARRETT said she is going to vote for the bill. She feels they as legislatures have a responsibility and should be here each year. It would be the easiest way to do their work and to ensure legislation that the legislation they pass is not taken over when there are not here.

REPRESENTATIVE LENHART stated they are not just legislatures when they are at the capital, they are on duty the rest of the time.

Motion: REP. DELL moved that **SB 123 BE CONCURRED IN AS AMENDED.**

Vote: Motion carried 12-3 with Brown, Masolo, and Olson voting no.

HEARING ON SB 362

{Tape : 1; Side : A; Approx. Time Counter : 17.3}

Sponsor: SENATOR JON TESTER, SD 45, BIG SANDY

Proponents: None

Opponents: None

Informational: Linda Vaughey, Commission of Public Practices

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 17.3}

SENATOR JON TESTER, SD 45, BIG SANDY stated the bill is to prohibit the threatening use of a public official or legislator's position for personal or business benefit or advantage.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 21.3}

REPRESENTATIVE RIPLEY said he agrees with the bill, but he has a problem trying to legislate commonsense. He then asked if a law is really needed to do that. **SENATOR TESTER** replied he thinks people need to know what is expected of them in their position. He thinks that professionalism is going to be lost, if they don't work to maintain it.

REPRESENTATIVE LEHMAN asked if there have been any implied situations since 1995. **SENATOR TESTER** replied no.

REPRESENTATIVE LEHMAN then asked if this is already in place somewhere. **SENATOR TESTER** said it might be, but this bill is more exclusive.

REPRESENTATIVE RASER asked if there are currently procedures for violating the rules that exist. **SENATOR TESTER** said yes.

REPRESENTATIVE HEDGES asked if this current piece of legislation is already covered in the procedures. **Linda Vaughey** replied that with this bill, there would be a definition of public officer. There is currently an enforcement provision within the Code of Ethics and they will be revisiting those rules to provide clarity.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 28.6}

SENATOR TESTER stated everything each person does individually impacts everybody else. If there is a Representative or Senator who acts inappropriately, it will reflect back on them. He feels everyone likes to keep their images as clean as possible.

EXECUTIVE ACTION ON SB 185

{Tape : 1; Side : A; Approx. Time Counter : 30}

Motion: REP. BROWN moved that SB 185 BE CONCURRED IN AS AMENDED.

Discussion:

Sheri Heffelfiner submitted and discussed a summary and analysis she prepared of Section 3 of SB 185 and proposed amendments.

EXHIBIT (sth65a01)

Motion: REP. DELL moved to STRIP his AMENDED (SB018501.ASH) to SB 185. **Vote:** Motion carried 14-1 with Raser voting no.

Motion: REP. BROWN moved that SB 185 BE CONCURRED IN AS AMENDED.

Motion: REP. OLSON moved that SB 185 BE AMENDED.

Discussion:

REPRESENTATIVE BROWN said this has happened one time in six year, and does not feel that is a reason to micro manage. She feels they need to trust the people who are in charge.

Motion: REP. OLSON moved that SB 185 BE AMENDED. **Vote:** Motion carried 14-2 with Raser and Smith voting no.

Motion: REP. RIPLEY moved that SB 185 BE CONCURRED IN AS AMENDED.

Motion/Vote: REP. RASER moved that SB 185 BE AMENDED (SB018505.ASH). **Motion carried 16-0.**

Motion: REP. DELL moved that SB 185 BE CONCURRED IN AS AMENDED.

Discussion:

REPRESENTATIVE RASER asked if the original intent of the bill to include legislatures or not. REPRESENTATIVE OLSON replied, he was not sure.

REPRESENTATIVE DELL said he is going to vote no on the bill. He does not feel administrative rule making needs to be in place about their behavior.

REPRESENTATIVE BROWN told the committee she is voting for the bill.

REPRESENTATIVE LENHART felt the bill may not be a perfect bill, but it needs to be passed out of the committee.

Motion: REP. DELL moved that SB 185 BE CONCURRED IN AS AMENDED.

Vote: Motion carried 15-1 with Dell voting no.

EXECUTIVE ACTION ON SB 51

{Tape : 2; Side : A; Approx. Time Counter : 6.2}

Motion: REP. OLSON moved that SB 51 BE CONCURRED IN.

Motion: REP. OLSON moved that SB 51 BE AMENDED. **EXHIBIT**(sth65a02)

Discussion:

REPRESENTATIVE OLSON stated the main purpose of this amendment was to some concerns he had that would effect local government. It changes "have to" except it, to "may" except it.

REPRESENTATIVE DELL said he agrees with the amendment and with their option to say yes or no.

REPRESENTATIVE RIPLEY commented, the only way he can support the bill is if the amendment is passed.

REPRESENTATIVE RASER said she understands the intent, but does not like the idea of the employer have the last word is saying no. It would be taking away rights from the employee.

REPRESENTATIVE BROWN agreed with the amendment, because she felt the employer is the one who will decide the bottom line and the tax payers are the one always paying the bill. Just because the employee says "I want" does not mean the tax payer has the money to say "I'll give".

REPRESENTATIVE LEHMAN stated there is a difference between employer and employee. The employer is responsible for someone and do have to keep an eye on the budget. He supports the amendment.

Motion: REP. OLSON moved that SB 51 BE AMENDED. EXHIBIT (2) **Vote:** Motion carried 14-2 with Jacobson and Raser voting no.

Motion: REP. OLSON moved that SB 51 BE CONCURRED IN AS AMENDED. **Vote:** Motion carried 16-0.

Motion: REP. DELL moved that SB 51 BE RECONSIDERED. **Vote:** Motion carried 16-0.

Motion: REP. DELL moved that SB 51 BE CONCURRED IN.

Motion: REP. DELL moved that SB 51 BE CONCEPTUALLY AMENDED.

Discussion:

REPRESENTATIVE DELL stated the amendment would increase the vote to 2/3 vote.

Motion: REP. DELL moved that SB 51 BE CONCEPTUALLY AMENDED. **Vote:** Motion carried unanimously. 16-0

Motion/Vote: REP. DELL moved that SB 51 BE CONCURRED IN AS AMENDED. Motion carried unanimously. 16-0

EXECUTIVE ACTION ON SB 114

{Tape : 2; Side : A; Approx. Time Counter : 22.6}

Motion: REP. WALTERS moved that SB 114 BE CONCURRED IN.

Substitute Motion/Vote: REP. HEDGES made a substitute motion that SB 114 BE TABLED. Substitute motion carried 14-2 with Brown and Raser voting no.

EXECUTIVE ACTION ON SB 362

{Tape : 2; Side : A; Approx. Time Counter : 25}

Motion: REP. BROWN moved that SB 362 BE CONCURRED IN.

Discussion:

REPRESENTATIVE MASOLO said there is currently a code of ethics in the constitution. In article 8, Section 4, Code of Ethics for Legislature. She feels the issue is already covered and that the bill is not needed.

Motion/Vote: REP. BROWN moved that SB 362 BE TABLED. Motion carried 9-7 with Bixby, Jacobson, Lenhart, Olson, Raser, Ripley, and Smith voting no.

EXECUTIVE ACTION ON SB 381

{Tape : 2; Side : A; Approx. Time Counter : 30.9}

Motion: REP. OLSON moved that SB 381 BE CONCURRED IN.

Discussion:

REPRESENTATIVE BROWN feels the need for a strategic plan that has bi-partisan support, therefore she is going to vote for the bill.

REPRESENTATIVE RASER said the bill makes good sense.

REPRESENTATIVE RIPLEY stated that he agreed with the concept and thinks there needs to be something in place, but does not feel this is the tool to do it.

REPRESENTATIVE HEDGES commented, he is going to speak against this piece of legislation. He spent 20 year in the private industry and they set goal on a routine basis and it becomes a challenge to right goals that they knew could be met. The goals looked good on paper, but all it does is consume time. He feels in order to have an effective government, there should be an

interim committee that periodically will do an in depth audit of a department, program by program. That would be an effective tool.

REPRESENTATIVE OLSON said agencies are already required to have performance goals, it is required by statue and is meaningless.

Motion: REP. DELL moved that **SB 381 BE CONCEPTUALLY AMENDED.**

Discussion:

REPRESENTATIVE DELL discussed his amendment with the committee. He said the amendment would require them to do customer surveys.

REPRESENTATIVE BROWN commented, she was not going to vote for the amendment because as a business owner she knows which customers they would be interviewing and which ones they would not.

REPRESENTATIVE BARRETT stated that she is going to vote no on the amendment because surveys can show anything you want them to show and can take a lot of extra time and money.

Motion: REP. DELL moved that **SB 381 BE CONCEPTUALLY AMENDED.**

Vote: Motion carried 10-6 with Barrett, Brown, Hedges, Lehman, Mood, and Walters voting no.

Motion: REP. MASOLO moved that **SB 381 BE CONCURRED IN AS AMENDED.**

Substitute Motion/Vote: REP. RIPLEY made a substitute motion that **SB 381 BE TABLED.** Substitute motion failed 8-8 with Bixby, Brown, Dell, Jacobson, Lenhart, Masolo, Raser, and Smith voting no.

Motion: REP. MASOLO moved that **SB 381 BE CONCURRED IN AS AMENDED.**

Vote: Motion failed 8-9 with Bixby, Dell, Jacobson, Jent, Masolo, Raser, Schrupf, and Smith voting aye.

Motion/Vote: REP. OLSON moved that **SB 381 BE TABLED.** Motion Carried 9-8 with Bixby, Dell, Jacobson, Jent, Masolo, Raser, Schrupf, and Smith voting no.

ADJOURNMENT

Adjournment: 11:00 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth65aad)